

LEASE

This lease is entered into by _____, the owner of the premises described in Paragraph 1 (LANDLORD), and the State of North Dakota, _____ (STATE).

1. SCOPE OF LEASE

The LANDLORD, in consideration of the rent to be paid and the covenants to be performed by STATE, hereby leases to STATE the following described premises situated in the city of _____, county of _____ and state of North Dakota:

2. TERM OF LEASE

The term of this lease shall be for a period of _____ months, commencing on the ____ day of _____, 20__, and terminating on the ____ day of _____, 20__.

3. RENTAL PAYMENTS

STATE will pay rent for the premises, consisting of _____ square feet, at \$ _____ per square foot per annum, or \$ _____ per annum. Rent will be paid in advance by the 10th day of each month in a monthly amount of \$ _____, which is 1/12 of the annual amount, commencing on the ____ day of _____, 20__, and continuing monthly thereafter for the term of this lease. Rent shall be payable at the residence of the LANDLORD, which is _____, unless the STATE is notified otherwise in writing by the LANDLORD.

4. LANDLORD'S OBLIGATIONS. For the term of this lease, and any extensions or renewals, LANDLORD agrees:

- a. To pay all water, sewer, heat, electricity, air conditioning and all other utility fees (except telephone) charged against the premises.
- b. To perform all required maintenance, including all janitorial services, which will be done on a daily basis, including furnishing of related supplies.
- c. To keep the walkways and parking areas of the premises free of accumulations of snow and to cut and care for the grass on the premises.
- d. That if other portions of the building are leased to other parties, LANDLORD shall not permit any activity to be conducted in other portions of the building or grounds that will materially interfere with STATE's use and enjoyment of the leased premises.
- e. That STATE may install items which it deems necessary for maximum and optimum utilization of the leased premises. STATE may, at any time, remove from the premises all fixtures and other equipment owned by STATE; provided that the removal must be completed by termination of this lease or any renewal or extension. STATE agrees to repair

any damages that may be done to the leased premises resulting from the removal of the items, if any.

- f. That STATE may place decorations, wall hangings, signs and directories upon entrance doors, in hallways leading to its leased premises, or doors and walls within the leased premises.
- g. To furnish _____ automobile parking stalls for use by STATE, its agents or designees, in the lot provided for use by the building tenants.
- h. To comply at its own expense with all federal, state, county, and city laws and ordinances and all lawful rules, regulations, or orders of any duly constituted authority, present or future, affecting the leased premises.

5. STATE'S OBLIGATIONS. For the term of this lease, and any renewals or extensions, STATE agrees:

- a. To pay the rent when due.
- b. To pay for its own telephone service.
- c. To keep the leased premises in reasonable condition the same as at the commencement of the term or as it may be put by the LANDLORD, except for reasonable use and wear, and damage by fire and unavoidable casualty.
- d. Not to make any unlawful, improper, or offensive use of the premises, and to observe all the laws of the state of North Dakota and the ordinances of the city of _____ in force from time to time relating to the leased premises.
- e. To permit the LANDLORD at all reasonable times to enter and examine the premises and to make necessary repairs for the protection of the premises.
- f. To surrender the leased premises to LANDLORD at the expiration of the term; and, in default of the payment of rent due or failure to perform its obligations under this lease, to surrender the premises upon demand made by LANDLORD.
- g. To maintain at its own expense and assume responsibility for all office equipment, furniture, and fixtures installed by STATE.

6. TERMINATION OF LEASE

It is expressly understood and agreed that STATE has no obligation under this lease for the initial or succeeding terms if the North Dakota Legislature fails to appropriate to STATE sufficient funds to defray the full rental costs. STATE, without any liability, may terminate this lease on thirty (30) days' written notice if its legislative appropriations are reduced or if its authority to spend its appropriations is reduced or limited by law or by reductions in federal or other grant funds to a point STATE, in its sole discretion, deems insufficient to pay the full rental cost for the remainder of the term of this lease. During the term of this lease or any renewal or extension, STATE may terminate this lease on thirty (30) days' written notice to the LANDLORD if the LANDLORD fails to comply with any of its obligations under this lease, or if STATE determines it must relocate to comply with the Americans With Disabilities Act of 1990 or any rules adopted under the act, or with any other state or federal law or rules.

7. TERMINATION OF LEASE IN THE EVENT OF DESTRUCTION OF PREMISES

If the leased premises are destroyed or damaged by fire or the elements to the extent they become untenable, then this lease shall immediately terminate, unless the LANDLORD, within twenty (20) days of the happening of the event, gives written notice of intention to restore the building and shall fully restore the premises within a reasonable time. During the term between destruction and restoration of the premises rent shall not be due.

8. HOLDING OVER

If STATE remains in possession of the premises after the lease expires, and the LANDLORD accepts rent from it, the lease shall be deemed renewed month to month.

9. MERGER

This lease is the entire agreement between the parties, and no modification of it shall be binding unless evidenced by written agreement signed by the parties.

10. SEVERABILITY

If any term or provision of this lease is declared by a court of competent jurisdiction to be invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the lease did not contain the particular term or provision held to be invalid.

11. ASSIGNMENT

This lease shall not be assigned or subleased by STATE unless the LANDLORD endorses its written consent to the assignment or sublease. This lease shall not terminate by reason of any sale of the premises by the LANDLORD to third parties, but shall continue throughout the entire term.

12. NOTICE

Whenever the term "written notice" or "in writing" is used in this lease, mailing of the notice shall be by certified mail sent to:

_____ or _____

13. APPLICABLE LAW

This lease shall be governed by and construed in accordance with the laws of the state of North Dakota.

14. SPOILIATION – NOTICE OF POTENTIAL CLAIMS

LANDLORD shall promptly notify STATE of all potential claims which arise from or result from this lease. LANDLORD shall also take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to the STATE the opportunity to review and inspect the evidence, including the scene of an accident.

15. INDEMNITY

LANDLORD shall defend, indemnify, and hold harmless STATE, its agencies, officers and employees, from any and all claims of any nature, including all costs, expenses, and attorneys' fees, which may in any manner result from or arise out of this lease, except for claims resulting from or arising out of the STATE's sole negligence. The legal defense provided by LANDLORD to the STATE under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the STATE is necessary. LANDLORD shall also defend, indemnify, and hold the STATE harmless for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided in this section. The obligation in this section shall continue after the termination of this lease.

16. INSURANCE

a. Required Coverages. LANDLORD shall secure and keep in force during the term of this lease, from insurance companies authorized to do business in North Dakota, the following insurance coverages covering the LANDLORD for any and all claims of any nature arising out of this lease:

- 1) Commercial general liability, including contractual coverage, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Workers' compensation coverage meeting all North Dakota statutory requirements.
- 3) Property insurance insuring the full and true value of all LANDLORD's real and personal property located on or in the building in which the leased premises are located for all losses.

b. General Insurance Requirements. The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the LANDLORD. The amount of any deductible or self-retention is subject to approval by the STATE.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form, and must be placed and maintained for the term of this lease and extensions with insurers rated "A" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. The policies shall be in form and terms approved by the STATE. "Follows form" means the excess policy must be written with the same terms and conditions as the policy to which it is excess.
- 3) The STATE will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the LANDLORD in excess of the minimum requirements set forth above. The duty to indemnify the STATE under section 15 shall not be limited by the insurance required in this section.
- 4) The STATE and its agencies, officers and employees shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insureds. The STATE shall have all the rights and coverages as LANDLORD under the policies. The additional insured endorsement for the commercial general liability policy shall be written on terms equivalent to the ISO 1985 CG 20 10 form, or such other form as approved by the STATE, and the endorsement shall not limit or delete STATE's coverage in any way based upon STATE's acts or omissions.
- 5) The insurance required in this section, through a policy or endorsement, shall include:

- a) a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the STATE;
 - b) a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned STATE representative;
 - c) a provision that any attorney who represents the STATE under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required by N.D.C.C § 54-12-08;
 - d) a provision that LANDLORD's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the STATE and that any insurance, self-insurance or self-retention maintained by the STATE shall be excess of the LANDLORD's insurance and shall not contribute with it;
 - e) cross liability/severability of interest coverage for all policies and endorsements.
- 6) The legal defense provided to the STATE under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the STATE is necessary.
 - 7) LANDLORD shall furnish a certificate of insurance coverage, the additional insured endorsement adding the STATE as additional insured, and, if requested, a copy of the insurance policy and all its endorsements, to the undersigned STATE representative prior to commencement of this lease.
 - 8) Failure to provide insurance as required in this section is a material breach of contract entitling STATE to terminate this lease at any time effective upon delivery of notice to LANDLORD.

17. **EFFECTIVENESS OF LEASE**

This lease is not binding on STATE until it is reviewed by the Office of Attorney General and approved by the Facility Management Division, Office of Management and Budget, as required in N.D.C.C. § 54-21-24.1.

LANDLORD

BY: _____

ITS: _____

STATE OF NORTH DAKOTA

BY: _____

ITS: _____

FORM APPROVED BY ATTORNEY GENERAL:

BY: _____ DATE: _____

APPROVED BY FACILITY MANAGEMENT:

BY: _____ DATE: _____

STATE OF NORTH DAKOTA)

COUNTY OF) ss
)

On this ____ day of _____, 20____, before me, the undersigned Notary Public for the state of North Dakota, personally appeared _____ known to me to be the person who is described in and who executed this instrument, and acknowledged to me that the named person did execute the foregoing lease for and on behalf of the landlord.

(SEAL)

Notary Public, _____ County
State of North Dakota
My Commission Expires: _____

STATE OF NORTH DAKOTA)

COUNTY OF) ss
)

On this ____ day of _____, 20____, before me, the undersigned Notary Public for the state of North Dakota, personally appeared _____ known to me to be the _____ and acknowledged to me that the named person did execute the foregoing lease for and on behalf of the State of North Dakota, Department of _____.

(SEAL)

Notary Public, _____ County
State of North Dakota
My Commission Expires: _____